

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BRUCE KRENZ,

Plaintiff,

vs.

CIVIL ACTION NO. 12-CV-419

CONTRACT CARPETS OF WAUSAU, INC.
d/b/a CARPET CITY and CARPET CITY
FLOORING CENTER,

Jury Trial Demanded

Defendants.

ANSWER

NOW COME Defendants, Contract Carpets of Wausau, Inc. d/b/a Carpet City and Carpet City Flooring Center, by their attorneys Mallery & Zimmerman, S.C. by Mark A. Sauer, and make the following answer and affirmative defenses to the Complaint of Plaintiff.

1. Admit the allegations contained in paragraphs 2-4, 6-8, 10-28, 30, 31, 35, 37-39, 41, 48 and 50.
2. Deny the allegations contained in paragraphs 1, 5, 9, 29, 32-34, 36, 40 and 51-56.
3. Defendants are without sufficient knowledge to form a basis as to the truth of the matter alleged in paragraphs 42, 43, 44, 45 and 46.
4. As to paragraph 47, these answering Defendants restate the answer previously given.

AFFIRMATIVE DEFENSES

NOW FURTHER COME Defendants, Contract Carpets of Wausau, Inc. d/b/a Carpet City and Carpet City Flooring Center, and make the following affirmative defenses to Plaintiff's Complaint:

1. The Complaint in whole or part fails to state a claim upon which relief can be granted against Defendants.

2. Plaintiff has failed to mitigate his damages.

3. Plaintiff's claim under the Family and Medical Leave Act of 1993 ("FMLA") should be dismissed due to, among other reasons, Plaintiff's failure to show that Plaintiff was an "eligible employee" of Defendants or that Defendants were a "covered employer" under the statute, that Plaintiff gave adequate notice of the need for protective leave, or that Plaintiff had a qualifying reason for leave under the FMLA statute 29 U.S.C. A. Sec. 2601, et seq.

4. No act or admission of Defendants violated any state or federal law concerning the FMLA.

5. To the extent Plaintiff claims a violation of the Wisconsin Family Leave Act, Defendants maintain that Plaintiff's claims are barred by the applicable statute of limitations.

WHEREFORE, Defendants, Contract Carpets of Wausau, Inc. d/b/a Carpet City and Carpet City Flooring Center, request that the Court determine the rights of the parties, and that the Court:

- A. Dismiss the Complaint with prejudice;
- B. Order Plaintiff to reimburse Defendants for its costs and reasonable attorneys' fees incurred in this dispute; and
- C. Granting such further relief as the Court may deem just and equitable

DATED this 9th day of August 2012.

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